

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SEBASTIAN SMITH,

Plaintiff,

-vs-

BARBARA McSWAIN, et al.,

Defendants.

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Case No. CIV-16-0285-F

ORDER

Plaintiff, a state pretrial detainee who appears *pro se* and whose pleadings are liberally construed, initiated a complaint under 42 U.S.C. § 1983.

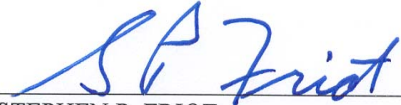
Magistrate Judge Bernard M. Jones issued a Report and Recommendation on April 20, 2016. Doc. no. 8. In the Report, Magistrate Judge Jones recommends that this action be dismissed for failure to state a claim upon which § 1983 relief may be granted, after initial review of the Complaint under 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1).

The Report advises plaintiff of the right to file an objection to the Report with the clerk of this court by May 11, 2016. The Report further advises that failure to make timely objection to the Report waives plaintiff's right to appellate review of both factual and legal issues contained in the Report. Plaintiff has not filed an objection or response to the Report, and plaintiff has not sought an extension of time within which to file any objection or response.

After review of the issues covered in the Report, with no objection having been filed, and having concluded that no further analysis is necessary, the Report and Recommendation of Magistrate Judge Jones is **ACCEPTED, ADOPTED** and

AFFIRMED. This action is **DISMISSED** upon initial review, for failure to state a claim upon which § 1983 relief may be granted. As further recommended by the Magistrate Judge, this dismissal counts as a “strike” pursuant to 28 U.S.C. §1915(g).

Dated this 31st day of May, 2016.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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